

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAWN WOODWARD,

Plaintiff,

v.

DECISION AND ORDER
15-CV-246-A

CHAUTAUQUA COUNTY, NEW YORK, and any of
its agents who may have been involved,
CHAUTAUQUA COUNTY SHERIFF'S DEPARTMENT,
and any of its agents who may have been involved,
JOSEPH A. GERACE, Individually and as Chautauqua
County Sheriff,
JS HOVER and LT. NELSON, Chautauqua County
Sheriff's Deputies, Individually and as Chautauqua
County Sheriff's Deputies,
NEW YORK STATE POLICE, and any of its agents
who may have been involved,
JOSEPH A. D'AMICO, Individually and as New York
State Police Superintendent,
J.B. CRESANTI and DEREK J. RAICHEL and TROOPER
DESTRO, New York State Police Troopers, Individually
and as New York State Troopers,

Defendants.

This action was referred to Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. § 636(b). On July 5, 2016, Magistrate Judge Roemer filed a Report and Recommendation (Dkt. No. 58), recommending that the defendants' motion to dismiss (Dkt. No. 35) be granted in part and denied in part. Specifically, Magistrate Judge Roemer recommends that the Complaint against the New York State Police be dismissed in its entirety for lack of jurisdiction, and that all claims against defendants D'Amico, Cresanti, Destro and Raichel in their official capacity be dismissed.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, pursuant to 28 U.S.C. § 636(b)(1), for the reasons set forth in Magistrate Judge Roemer's Report and Recommendation, defendants' motion to dismiss is granted in part and denied in part. The Complaint against the New York State Police is dismissed in its entirety for lack of jurisdiction, and all claims against defendants D'Amico, Cresanti, Destro and Raichel in their official capacities are dismissed. Because the Defendants' Answer does not contest service of process [62], Defendant's motion to dismiss is therefore otherwise denied. It is also

ORDERED that the parties shall abide by the schedule for further proceedings that has been entered by Magistrate Judge Roemer.

IT IS SO ORDERED.

Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: August 25, 2016